

Merits Panel  
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Paper 33

Filed July 17, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE  

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  

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Hossein Zia, Thomas E. Needham,  
and  
Muhammad Quadir  
Junior Party  
(Patent 6,090,368),

v.

Giancarlo Santus; Giuseppe Bottoni,  
and  
Ettore Bilato  
Senior Party  
(Application 09/903,665).

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Patent Interference No. 105,395 (JTM)  
(Technology Center 1614)  

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**JUDGMENT - REQUEST FOR ADVERSE - Bd. R. 127(b)**

1 Before SCHAFER, TIERNEY, and MOORE, *Administrative Patent Judges*.

2 MOORE, *Administrative Patent Judge*.

3 On Thursday, July 13, 2006, a conference call was held. Involved, as principal  
4 participants, were APJ James T. Moore for the Board, Adda Gogoris, Esq. for party  
5 Santus, and Leonard C. Mitchard, Esq. for party Zia.

6 The record of this interference reflects that Zia, the junior party, has not filed its  
7 priority statement. Bd. R. 204(a)(1) provides that a party may not submit evidence of its

1 priority in addition to its accorded benefit unless it files a priority statement. Zia cannot  
2 prevail on the current record.

3 During the conference call, Zia confirmed that it did not file a priority statement  
4 intentionally, would not be filing any motions, would not be defending this interference,  
5 and consented to the entry of an adverse judgment against it. We construe these  
6 statements as a Request for Adverse Judgment. Bd. R. 127(b)(4).

7 Upon consideration of the Request for Adverse Judgment, it is hereby:

8 **ORDERED** that judgment on priority as to Count 1 (Paper 1, page 5) is awarded  
9 against Junior party Hossein Zia, Thomas E. Needham, and Muhammad Quadir.

10 **FURTHER ORDERED** that Junior party Hossein Zia, Thomas E. Needham, and  
11 Muhammad Quadir is not entitled to a patent containing claims 1-4 (corresponding to  
12 Count 1) of patent 6,090,368.

13 **FURTHER ORDERED** that a copy of this paper shall be made of record in files  
14 of application 09/903,665 and patent 6,090,368.

15 **FURTHER ORDERED** that the parties shall direct attention to 35 U.S.C. § 135(c)  
16 and 37 CFR § 41.205(a) regarding the filing of settlement agreements.

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18 /Richard E. Schafer/ )  
19 ADMINISTRATIVE PATENT JUDGE )

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21 /Michael P. Tierney/ )  
22 ADMINISTRATIVE PATENT JUDGE )

23 ) BOARD OF PATENT  
24 ) APPEALS AND  
25 ) INTERFERENCES

26 /James T. Moore/ )  
27 ADMINISTRATIVE PATENT JUDGE )

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**Townes, Yolunda**

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Judgment - Request for Adverse - Bd.R. 127(b)

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7/17/06